

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

KENNETH C. MORRIS : :

: vs. :

: CASE NO. 99-360E NOV 1 2006

ROBERT W. MEYERS, ET AL. : :

CLERK, U.S. DISTRICT COURT  
WEST. DIST. OF PENNSYLVANIA

FILED

**PETITIONER'S APPLICATION FOR RELIEF PURSUANT  
TO FEDERAL RULE OF CIVIL PROCEDURE 60(b)(6)**

Petitioner, Kenneth C. Morris, Pro se respectfully requests this Honorable Court to grant his application for relief pursuant to Federal Rule of Civil Procedure 60(b)(6) and reinstate, nunc pro tunc his petition for relief pursuant to 28 U.S.C. § 2254. In support of this motion, Petitioner states the following.

1. This is a non-capital habeas case.
2. On September 23, 1987, petitioner was found guilty, but mentally ill, of first degree murder and sentenced to life imprisonment at 243 Crim. 1986, Court of Common Pleas of MeKean County, Pennsylvania, after a non-jury trial. The trial court and defense counsel made numerous errors during the trial and sentencing phases of this prosecution.
3. Petitioner appealed, and the Superior Court affirmed the judgment of the lower court in a published opinion See Commonwealth v. Morris, 561 A.2d 1236 (Pa.S. 1989). Petitioner did not file a Petition for Allowance of Appeal in the Supreme Court of Pennsylvania.
4. On September 1, 1994, petitioner filed a pro se PCRA Petition raising several claims of ineffective assistance of counsel, which was denied, and on appeal affirmed by the Superior Court of Pennsylvania.

5. Petitioner filed a Petition for Writ of Habeas Corpus which was denied on January 25, 2006. The Third Circuit Court of Appeals denied Petitioner's Certificate of Appealability on February 28, 2002.

6. On May 13, 20002, petitioner filed a Writ of Certiorari to the United States Supreme Court which was denied.

7. Petitioner filed a third PCRA Petition which was also denied by the lower court, the Pa. Superior Court, and the Supreme Court of Pennsylvania.

8. Petitioner now seeks relief from this Court's January 25, 2001 order dismissing his habeas petition. Petitioner requests that this Honorable Court rule, nunc pro tunc, to reinstate Petitioner's habeas petition and allow him to amend said petition pursuant to Federal Rule of Civil Procedure 15(c). See United States v. Thomas, 221 F.3d 430, 436 (3rd Cir. 2000).

9. Federal Rule of Civil Procedure 60 allows relief from final judgments in cases in which extraordinary circumstances exist, and without such relief, an extreme and unexpected hardship would occur.

10. An extraordinary circumstance exists in Petitioner's case which warrants relief under Fed.R.Civ.Proc. 60. As a result of the district court's inability to consider petitioner's arguments that were raised in the United States Supreme Court. Petitioner was found guilty but mentally ill and this statute has yet to have been properly challenged in the federal courts and is therefore, an extraordinary circumstance which warrants relief from the district court's order to dismiss Petitioner's habeas petition.

WHEREFORE, Petitioner respectfully requests that this Honorable Court grant his application for relief pursuant to Fed.R.Civ. Proc. 60(b)(6) and reinstate his habeas petition nunc pro tunc.

Respectfully submitted,

K C Morris  
Kenneth C. Morris  
Petitioner Pro Se  
Box A, AJ1083  
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CERTIFICATE OF SERVICE

I, Kenneth C. Morris Petitioner, Pro se hereby certify that I have filed and served a copy of the foregoing documents upon the District Attorney's Office of McKean County, Pennsylvania via first class mail this 13<sup>th</sup> day of November 2006.

District Attorney's Office  
McKean County Courthouse  
Smethport, Pa. 16749

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